

## REMARKS

Claims 1 and 11-14 were pending as of the Office Action of February 26, 2008, with claims 2-10 and 15 having been previously cancelled. Claim 12 is cancelled with this Response, and claims 16-17 are added. Applicant respectfully thanks the Examiner for indicating the allowable subject matter of claim 12, which has been re-written in independent form (including all intervening claims from which claim 12 depended) in new claim 16.

### Rejections under 35 U.S.C. §103(a)

Claims 1, 11, 13, and 14 have been rejected under 35 U.S.C. §103(a) as being obvious over United States Publication No. 2003/0098792 to Edwards (“Edwards” hereinafter) in view of Non-Patent Literature to Steindl (“Steindl” hereinafter”). Applicant respectfully traverses this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Applicant respectfully submits that there is no motivation found in either of the cited references of Edwards and Steindl that would lead one of ordinary skill in the art to combine/modify the two references to teach Applicant’s claims (as amended). As is discussed below, such a proposed combination would be improper due to impermissible hindsight (under MPEP 2145 X), as well as a rendering of Edwards to be unsatisfactory for its intended purpose due to such a proposed combination (under MPEP 2143.01 V).

With reference to the proposed combination being improper due to impermissible hindsight, Applicant respectfully asserts that it is not normally possible to replace one electrical component by another without taking care to adapt the electric circuit. Thus, one of ordinary skill in the art would not expect that a replacement the transmitter of Edwards by the SAW device of Steindl would result

in an operational system. Therefore, as one of ordinary skill in the art would not expect replacement of one electrical component with another, this person of ordinary skill in the art would need some sort of incentive to make the modification/combination. As there is no incentive or motivation found in either Edwards to Steindl to make this change, the incentive would have to be gleaned from Applicant's disclosure. Applicant respectfully submits that this is improper under the impermissible hindsight guidelines of MPEP 2145 X.

Furthermore, if one were to attempt the proposed combination of Edwards and Steindl, significant modifications would become necessary on the receiver portion (reference numeral 30) of Edwards, as this receiver portion 30 is only configured for **reception** of signals, and is thus unable to **interrogate a passive detection portion**. One of ordinary skill would have to impermissibly look (again via impermissible hindsight) to Applicant's disclosure to provide the necessary teaching/motivation that would lead to the proposed combination, particularly with regards to configuring a polling unit in Edwards. In addition, the device Edwards, as disclosed, would be rendered inoperable without these significant modifications to its receiver portion. Therefore, the proposed combination would render Edwards unsatisfactory for its intended purpose, which, under MPEP 2143.01 V, provides further evidence that the proposed combination of Edwards and Steindl would be improper.

Some of the necessary Edwards modifications discussed above would include removal of the power source and those components that are powered by it, such as the audio device and the controller. Furthermore, since Edwards is obviously silent regarding how a SAW device should be connected, one of ordinary skill in the art would have to look to Steindl (unless he were to impermissibly look to Applicant's disclosure) for a teaching of such a connection.

According to Steindl, an external sensor influences load impedance of the SAW resonator, which changes the acoustic transmission and reflection of the SAW resonator (see page 1453, paragraph spanning the first and second columns, and Figure 3 on page 1454). It follows clearly from Steindl that the external sensor is connected to the SAW device so as to influence the acoustic transmission and reflection properties of the SAW. However, does **not** disclose the SAW device to be connected to the external sensor in such a way that *the surface acoustic wave device is only*

*activated when the dedicated pressure sensor is triggered.* Thus, in order to teach every element of Applicant's claims, Edwards would again have to be modified using information learned from Applicant's disclosure.

Accordingly, Applicant respectfully submits that *prima facie* obviousness does not exist regarding claims 1, 11, 13, and 14 with respect to the proposed combination of Edwards and Steindl.

Conclusion

Applicant believes that all of the outstanding objections and rejections have been addressed herein and are now overcome. Entry and consideration hereof and issuance of a Notice of Allowance are respectfully requested.

Applicant hereby petitions for any extension of time under 37 C.F.R. 1.136(a) or 1.136(b) that may be necessary for entry and consideration of the present Reply.

If there are any charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicants' attorneys.

The Office is invited to contact applicant's attorneys at the below-listed telephone number concerning this Amendment or otherwise regarding the present application.

Respectfully submitted,  
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